

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT MAITAMA – ABUJA
BEFORE HIS LORDSHIP: HON. JUSTICE .H. MU’AZU
SUIT NO: FCT/HC/CV/7371/2023
DELIVERED ON THE 06/05/2025**

BETWEEN:

FAMA CONCEPTS LIMITED.....CLAIMANT
(Suing By its Attorney NNAMDI OKEKE NWUDE)

AND

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| <p>1. THE HON. MINISTER FEDERAL CAPITAL TERRITORY
ADMINISTRATION</p> <p>2. FEDERAL CAPITAL DEVELOPMENT AUTHORITY (FCDA)</p> <p>3. ECONOMIC AND FINANCIAL CRIMES COMMISSION</p> | } | <p>....DEFENDANTS</p> |
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JUDGMENT

This suit was filed vide an originating summons brought pursuant to order 2 rule 3(1) of the FCT High Court (Civil Procedure) Rules 2018 and under the inherent jurisdiction of this Honourable Court. The summons dated the 16th day of July, 2024 and filed on the same date is supported by a 21-paragraph affidavit duly deposed to by the Claimant. The Claimant who wants the court to enforce his fundamental Rights prays for the following reliefs:

- (a) *A Declaration that the Claimant is the lawful, rightful and beneficial owner of plot 954, Cadastral Zone E27, Apo, Abuja measuring approximately 6910.07m² covered by offer of statutory Right of Occupancy Number MISC102322 dated 14/04/2011.*

- (b) *The Declaration that the continuous restriction of the Claimant's title over plot 954, Cadastral Zone E27, Apo, Abuja measuring approximately 6910.07m² covered by offer of Statutory Right of Occupancy Number MISC 102322 dated 14/04/2011 by placing same on CAVEAT by the Respondents is unlawful.*
- (c) *A Declaration that the continuous restriction of the Claimant's title by placing same on CAVEAT by the Respondents thereby precluding the Claimant from transacting by way of Assignment, Mortgage, Pledge, Lease or delegating his interest over plot 954, Cadastral Zone E27, Apo, Abuja measuring approximately 6910.07m² covered by offer of Statutory Right of Occupancy Number MISC 102322 dated 14/04/2011 is unlawful, null and void.*
- (d) *A Declaration that the continuous restriction of the Claimant's title over plot 954, Cadastral Zone E27, Apo, Abuja measuring approximately 6910.07m² covered by offer of Statutory Right of Occupancy Number MISC 102322 dated 14/04/2011 by placing same on CAVEAT by the Respondents thereby precluding the Claimant from developing same is unlawful, null and void.*
- (e) *An Order of this Honourable Court directing the Respondents forthwith to remove and lift the CAVEAT placed on the Claimant's title plot 954, Cadastral Zone E27, Apo, Abuja measuring approximately 6910.07m² covered by Offer of Statutory Right of Occupancy Number MISC 102322 dated 14/04/2011.*
- (f) *An Order of perpetual injunction restraining the defendant forthwith from registering or recognizing any other interests over plot 954, Cadastral Zone E27, Apo, Abuja measuring approximately 6910.07m² covered by Offer of Statutory Right of Occupancy Number MISC 102322 dated 14/04/2011 without the consent and authority of the Claimant.*

(g) *The sum of ₦50,000,000.00 (Fifty Million Naira Only) as general damages against the Respondents for continuous unlawful restriction of the Claimant's title.*

The Claimant also invited this Court for the determination of the following question:

- 1. Whether or not by virtue of the Offer of Statutory Right of Occupancy granted to the Claimant over plot 954, Cadastral Zone E27, Apo, Abuja measuring approximately 6910.07m² covered by Offer of Statutory Right of Occupancy Number MISC 102322 dated 14/4/2011 the Respondents can lawfully continuously restrict the title of the Claimant by placing a CAVEAT on same without reasonable and lawful justification.**

In accordance with the Rules of this court, the Applicant filed a statement stating the name and description of the Applicant, reliefs and the grounds upon which the reliefs are sought. Also, filed is an affidavit of twenty - one (21) paragraphs deposed to by **NNAMDI OKEKE NWUDE**, the Attorney of Claimant in this case and the beneficial and lawful owner of plot **954** Cadastral Zone **E27**, Apo, Abuja which were attached Exhibits **A - C**, thus:- Exhibits **A** offer of Statutory Right of Occupancy Number **MISC 102322** dated the 14/04/2011, Exhibit **B**, Revenue collector's receipt dated the 26/01/2023 and Exhibit **C**, Receipt of payment of the sum of **₦5,000,000.00** (Five Million Naira Only) as legal fees respectively. The application is also accompanied with a written address which was adopted by the learned counsel to the Applicant as his oral argument in support of the application.

The Respondents after having been served with the processes of this court filed a motion on notice seeking for the extension of time within which the **1st** and **2nd** Respondents were to file their counter affidavit dated the **19th** September, 2024 and filed on the **20/09/24**. The

application was granted and the Respondents filed their counter affidavit dated the 20th day of September, 2024 on the same date. The counter affidavit of the 1st and 2nd Respondents is of 13 paragraphs deposed to by **Saidu Badamasi Abdulkhadir**, a legal assistant in the office of the Respondents with Exhibit **A** attached thereto as well as the written address of the learned counsel to the 1st and 2nd Respondents as their oral arguments in support of the counter affidavit. The content of Exhibit **A**, attached to the counter affidavit, requested the Director Lands, Department of Land Administration, Area II, Garki, Abuja to place the plots on Caveat pending the conclusion of investigation. The 3rd Defendant, also filed their counter affidavit dated the 8th day of November, 2024 on the same date. The 20-paragraph counter affidavit of the 3rd defendant deposed to by one **ANDREW OKECHUKWU**, a detective assigned to investigate the case that led to the filing of this present suit. The counter affidavit is supported by Exhibits **EFCC 1** to **EFCC 8** respectively. It is also accompanied with a written address adopted as the oral argument of the learned counsel to the 3rd Respondents. The exhibits attached thereto include Exhibit **EFCC 1**, the petition reported by Lawandeen Jamilu & Associates on behalf of Musa Ya'u Koki, **EFCC 2** is the statement of the complainant, **EFCC 3** is a letter from the Corporate Affairs Commission forwarding the particulars of Directors of the Claimant, Exhibit **EFCC 4** is the statement of **AYLWIN EBOH**, Exhibit **EFCC 5**, the purported Tax clearance Certificate which was forwarded to the (FIRS) for authentication, Exhibit **EFCC 6** is a copy of the letter from (FIRS) to the effect that the Claimant is not on (FIRS) database, Exhibit **EFCC 7** is the statement of Mr. Augustine Udeh and Exhibit **EFCC 8** is the statement of Mr. Messiri who is the only surviving director of the Claimants respectively. In addition, the Claimant also filed another process title "Reply on point of Law" dated the 2nd day of December, 2024 on the same date which was adopted as a further argument of the learned counsel for the

Claimant in support of their application. This is a response to the argument and counter affidavit of the **3rd** defendant.

Above are the processes filed before this Honourable Court by the parties. It will now be in the interest of Justice to also paraphrase the salient points revealing the position of the Respondents to the application for the enforcement of the Applicant's Fundamental Rights.

The 1st and 2nd Respondents have stated their position to this application and are of the stand that plot **954**, Cadastral Zone **E27**, Apo, Abuja measuring approximately **6910.07m²** covered by an offer of Statutory Right of Occupancy Number **MISC 102322** was allocated to FAMA Concepts Limited. They stated that an investigation Caveat was placed on plot 954 on the request of the EFCC via a letter dated the 23rd July, 2018. It was further stated that the plot 954 as shown on the Respondent's Land Database was allocated to FAMA Concepts Limited vide ministerial approval dated the 03/03/2011, and that the original Right of Occupancy was duly conveyed and collected by one **AYLWIN U. EBOH** dated the 14/12/2011. According to the **1st** and **2nd** Respondents since the caveat was placed on plot 954 on the request of the EFCC, no further information has been received from the EFCC to lift the caveat placed on the said plot hence the order of this Honourable Court joining EFCC as the 3rd defendant in this suit. It is the position of the **1st** and **2nd** Respondents that the Claimant is not entitled to any of the declarations or reliefs sought or contained in the originating summons.

On their part, the **3rd** Defendant, that is, the Economic and Financial Crimes Commission in their 20-paragraph counter affidavit hold the position that:

"On the 26th April, 2018 a case of obtaining money under false pretence, Criminal breach of trust and forgery was reported to the Commission by Lawandeen Jamilu & Associates on behalf of Musa Ya'ukoki against the

trio of Hassan Abubakar, Bashir Haidar and Rayyan Sufyan. The petition was marked as Exhibit **EFCC 1**. The statement of the complainant, Exhibit **EFCC 2** contained facts to the effect that Bashir and Rayyan Sufyan brought documents to him which were later found to be false and this include title document relating to plot 954. The 3rd Respondents further revealed the facts that plot **954** was allocated to FAMA Concept Ltd. with RC No. **371257** vide statutory Right of Occupancy Number **MISC 102322** dated the 14/04/2011 registered with Corporate Affairs Commission from where the particulars of Directors of the Claimant were shown in exhibit EFCC 3. The statement of the AYLWIN EBOH attached as exhibit 4 shows that Mr. Clement Amaran, one of the Directors of FAMA CONCEPT LIMITED instructed him to apply for the statutory Right of Occupancy for plot **954, E27** Apo, Abuja at AGIS on behalf of Fama Concept LTD. which he did. It is further stated that in the course of their investigation the AGIS submitted to the 3rd defendant copies of documents including tax clearance certificate submitted on behalf of the Claimant applying for the allocation of plot 954. The combined effect of **EFCC 5 & 6** shows that the said tax clearance certificate was not on the database of the (FIRS). In the same vein, Exhibit **EFCC 4** clearly shows that it was a forged tax clearance certificate the Claimant gave and this include false information regarding its tax status in securing allocation. It also signifies that the Applicant has never paid tax. In furtherance of their opposition to this application the 3rd defendant revealed in paragraphs 16(i), (j) & (k) of the 3rd Respondents counter affidavit as follows:-

- i. That plaque by the failure of Mr. Clement Amaran to settle him for securing the allocation of plot 954 for the Claimant Mr. AYLWIN UKANDU EBOH and Sebastine Ikechukwu Duru sometimes in 2016 erected a fence on the plot and thereafter floated another company name Fama Concepts Limited**

(registered on 14/8/2015 with directors as Ikechukwu SebastineDuru and Eunice EzinneDuru) for the sole purpose of applying for the certified true copy of R of O in respect of plot 954 at AGIS claiming that they are the owners of the property and have lost the original R of O on 23rd December, 2015 at 12:30 hrs while on transit from Berger B/stop to Katampe, Tipper Garage Abuja and efforts to trace same proved abortive.

- j. That in desperate attempt to get the CTC of the R of O in respect of plot 954 Aylwin and Ikechukwu also did and submitted Police extract, Board Resolution, Newspaper publication, court affidavit and paid for map production and land application fees covered by revenue receipts from AGIS.**

However, AGIS refused to give CTC applied for by the above-named persons. The statement of Mr. **Augustine Udeh** was Exhibited as **EFCC 7** in which he denied any knowledge of the plot 954 having been sold to any other person.

Again, in paragraph 16(t), it is deposed to the facts as follows:

"that Mr. Nnamdi Okeke was asked to show evidence of payment on how his late wife purchased the said plot from Fama Concept Limited and he could not show same".

This averment is to prove the genuineness of the said Mr. Nnamdi Okeke's claim to be the Claimant's Attorney.

In the same vein, by paragraph 16(u) of the 3rd Respondents counter affidavit it was deposed as follows:

"That moreso that Mr. Nnamdi MessiriTota who is the only surviving director of the Claimant vehemently denied that the Claimant has ever executed any deed of assignment or power

of Attorney in favour of Mr. Nnamdi Okeke or Beatrice Okeke in respect of plot 954, Apo. The statement of Mr. Messiri was attached as exhibit EFCC 8.

Above all, paragraph 19(a) of the counter affidavit of the 3rd Respondents states as follows:-

"That investigation shows that plot 954 was obtained by the Claimant as a result of forgery and giving false information to public servant and therefore amounts to proceeds of unlawful activities".

In further reaction to the content of the 20-paragraphs counter affidavit of the 3rd Respondents the Applicant filed another further reply on point of law, on the 02/12/2024. The learned counsel to the Claimant referred this Honourable Court to a number of judicial authorities in addition to the ones referred to in the written address in support of the originating summons. This Honourable Court will come back to the reply on point of law, but it suffices to observe that no single document was shown by the Claimant to contradict any of Exhibits **EFCC 1 - EFCC 8** attached to the counter affidavit of the **3rd** Respondent.

Meanwhile, the written addresses of the learned counsel to the parties adopted before this Honourable Court by the respective counsel for the parties, could also be summarised at this stage as follows:

The learned counsel for the Claimant JOHN ABAH AUGUSTINE ESQ in his written address formulated a lone issue for the determination by this Hon. Court to wit:

"Whether or not by virtue of the offer of statutory Right of Occupancy granted to the Claimant over plot 954, Cadastral Zone E27, Apo, Abuja measuring approximately 6910.07m² covered by offer of statutory Right of Occupancy Number

MISC 102322 dated the 14/04/2011, the Respondents can lawfully continuously restrict the title of the Claimant by placing a Caveat on same without reasonable and lawful justification".

The learned counsel started his argument on the basis of Order 2 rules 3(1) of the FCT High Court (Civil Procedure) Rules, 2018 (and the Extant Rules of 2025), which provides as follows:

"Any person claiming to be interested under a deed, will enactment or other written instrument may apply by originating summons for the determination of any question of construction arising under the instrument and for a declaration of the right of the persons interested".

The learned counsel for the Applicant/Claimant submitted that this present suit is within the provisions of the rules of this court as no facts are in dispute and that this Hon. Court is only invited to interpret the terms of the offer of Statutory Right of Occupancy issued to the Claimant by the Respondents vis a vis the Respondent's act of continuous placing of Caveat over the title of the Claimant. He referred to the case of **AWOLAJA & ANOR V. BALOGUN (2018) LPELR - 45535 (CA)** where it was held that:

"It is trite law that the Procedure or the use of originating summons cannot be employed in hostile proceedings".

He submitted that the Claimant had validly accepted the offer and adequately furnished consideration for the grant of same thus establishing a valid contract between the Applicant and the Respondents. Which agreement therefore becomes sacrosanct and ought to be kept by the parties. He equally referred to the case of **OSESA V. TULIP COCOA (CA)** which is to the effect that parties are bound by the terms

of the contract unless and until it is shown cogently that such contract is infected with vitiating elements. According to the learned counsel for the Claimants, the Claimant is the rightful and beneficial owner of the plot 954, Cadastral Zone E27, Apo, Abuja measuring approximately **6910.07m²** covered by offer of Statutory Right of Occupancy Number **MISC 102322** dated 14/04/2011 and that the Claimant should be allowed by the Respondents to exercise all ownership rights over same. The learned counsel urged this court to give an order restraining the Respondents from persisting and continuing in their reprehensible conduct of placing Caveat on the plot **954** belonging to the Claimant. He referred this Hon. Court to numerous Judicial authorities including ***ADEDEJI V. OBAJIMI (2018) LPELR - 44360 (SC) ATTORNEY-GENERAL OF RIVERS STATE VS. ATTORNEY GENERAL OF AKWA IBOM STATE & ATTORNEY GENERAL OF THE FEDERATION (2011) 3 SC pg 1, OSESA*** (supra) and others for the purpose of convincing this Honourable Court to give an order against the Respondents to lift the Caveat placed on the Claimant's plot 954 so as to enable the Claimant to fully exercise full ownership over the said plot in question. He finally prayed this Honourable Court to grant all the reliefs of the Claimant by restraining the Respondents in any way whatsoever.

In response to the originating summons the **1st** and **2nd** defendant filed joint counter affidavit of 13 paragraphs deposed to by one SAIDU BADAMASI ABDULKADIR, of legal services secretariat of the Federal Capital Territory Administration, Area II, Garki, Abuja. In arguing the position of the **1st** and **2nd** Respondents in this case, the learned counsel for the **1st** and **2nd** Respondents O. T. Tolulope Esq formulated a sole issue for the determination by this Hon. Court to wit:

"whether considering the counter affidavit and the exhibit attached thereto, it can be said that the 1st and 2nd

Respondents placement of caveat was in bad faith and can be held liable".

The learned counsel submitted that it could be deduced from the content of the counter affidavit of the 1st and 2nd Respondents alongside the documentary evidence that the 1st and 2nd Respondents acted on the request of the 3rd Respondents and that there has been no any contrary correspondence from the 3rd defendant directing that the Caveat be removed from plot 954. He referred to the case of **ZENITH BANK PLC V. I.A.O (2017) LPELR - 42549 (CA)** where the court, held that:

"An agent of a disclosed Principal cannot be held liable for acts done within the scope of their authority but can be liable for personal wrongdoing".

The learned counsel further referred this Hon. Court to a number of Judicial authorities that include **OKOLO V. UNION BANK OF NIGERIA LTD. (2004) 11 NWLR (Pt. 885) pg 426, FIRST BANK OF NIGERIA PLC V. AKPOYOMARE (2011) 15 NWLR (Pt. 1271) 1** and urged this Honourable Court to dismiss this suit, the Claimant having failed to show by way of any scintilla of proof to claims against the 1st and 2nd Respondents.

The learned counsel for the 3rd defendant, M. I. Buba Esq, in his argument contained in his written address formulated three (3) issues for the determination by this Hon. Court to wit:

- 1. Whether from the facts of this case as disclosed in the 3rd defendant's counter affidavit, the plot number 954, Cadastral Zone E27, Apo, Abuja measuring approximately 6910.07m² covered by offer of Statutory Right of Occupancy Number MISC 102322 dated 14/04/2011 is not a proceed of crime in view of the manner the Claimant secured its allocation.**

2. **If the answer to issue one is in the affirmative whether it is right for the 3rd defendant to restrict access to and prevent disposal of the said plot 954 pending the conclusion of investigation and possible forfeiture of the property by the court.**
3. **Whether granting the reliefs sought in the instant originating summons will not enable the Claimant to benefit from its illegality.**

In support of the above issues raised the learned counsel for the 3rd Respondents also referred this Hon. Court to a number of judicial authorities but particularly to the provisions of section 363 of the Penal Code, sections **33,92, 101** and **77** of the Companies and Income Tax Act LFN 2004, respectively and submitted that the tax clearance certificate which the Claimant submitted to AGIS for purpose of securing allocation of plot 954 is a forged document and therefore a proceed of unlawful activities (i.e forgery of tax clearance certificate). He also referred to **section 82 of the Proceeds of Crime (Recovery and Management) Act, 2022, section 30 of the Money laundering (Prevention and Prohibition) Act, 2022** and submitted that it will be unconscionable and contrary to public policy for this court to allow the Claimant access, deal, appropriate, dispose and exercise any act of ownership over plot 954 Cadastral Zone **E27**, Apo.

On the second issue, the learned counsel for the 3rd defendant referred to **section 7 of the EFCC (Establishment) Act, 2004** and the case of **AKOPO V. EFCC & ANOR (2019) LPELR - 4782 (CA)** where the powers of EFCC were spelt out. He also referred to the case of **ORJI UZOR KALU V. FEDERAL REPUBLIC OF NIGERIA & ORS (2012) LPELR - 9287 (CA)**. The learned counsel for the 3rd Respondents specifically refer to the case of **EFCC V. ZAHARA**

SHOPPING MALL LTD (2016) LPELR - 42210 (CA) where it was held as follows:

"after a careful examination of the above definitions, it would be clear that allowing temporary taking of possession for the purpose of examination, investigation or enquiry would perforce extend to the conduct of a criminal case. I am of the view that to do otherwise will give the Constitutional provision a very narrow interpretation which will defeat the purpose of the constitution itself".

The learned counsel further submitted that the decision in the case of **EFCC V. ZAHARA SHOPPING MALL LTD (supra)** is that the 3rd defendant has the power to take temporary possession of a property suspected to be proceeds of crime and in due course apply ex-parte to court for interim forfeiture of the property pending the conclusion of investigation and prosecution so as to prevent the interference, disposal and disposal of the property by the subject or any third party on his behalf. According to the learned counsel the ultimate aim of the instant suit is for this court to validate the illegal title of the faceless Claimant and enable it's so-called Attorney to dispose off the property.

On the third issue for determination by this Honourable Court the learned counsel for the 3rd defendant referred to the case of **GREEN V. GREEN (1987) 3 NWLR (Pt. 61) pg 480 at pg 516** where the Supreme Court held thus:

" a court would not allow a person to profit by his own wrong. A person may not create a crisis situation and turn around to plead the crisis in support of his interest".

He equally referred to the case of **CHIEF OF DEFENCE STAFF & AROR V. TIJAH (2016) LPELR - 40818 (CA)** and particularly the

case of **BROSSETTE MANUFACTURING NIG. LTD V. M/S OLA ILEMOBOLA LTD. (2007) ALL FWLR (Pt. 379) pg 1340** where the Supreme Court Per OGBUAGWU JSC held at pgs 1380 - 1381 that:

"This court will not oblige it. This is because, it will not allow any person or party or body to benefit from his or its own wrong".

He finally referred to **section 101(4) of the Companies Income Tax Act LFN, 2004** and urged this Honourable Court to dismiss the originating summons so that the Claimant cannot be allowed to benefit from its own deliberate contravention of the law by being aided to exercise any act of ownership over plot 954, Apo.

Against the averments contained in the counter affidavit of the 3rd defendant the Claimant filed another process titled, "Reply on point of law ". The learned counsel for the Claimant submitted that it is only the Minister of FCT that can grant Rights of Occupancy to land and revoke or deal with, however, interest in land within the Federal Capital Territory.

He referred to the cases of **AJIBULU V. AJAYI (2013) LPELR - 21860 (SC)**, **ALLASURE V. ODEZEH (2021) LPELR - 53631 (CA)**, **MADU V. MADU (2008) LPELR - 1806 (SC)** respectively to buttress his argument that it is only the Minister of FCT that can grant or revoke Statutory Right of Occupancy over any land in FCT, Abuja and no one else. He further submitted that there is no evidence from the **1st** and **2nd** Respondents, the sole custodians of all lands within the FCT neither declaring the invalidity of the title of the Claimant nor alleging irregularity in issuance of the title of the Claimant. He equally submitted that it is not the statutory duties of the 3rd defendant to challenge, dispute or impugn the validity of the Claimant's title over plot 954, Cadastral Zone **E27**, Apo, Abuja.

He also referred to sections **131, 132, 136 of the Evidence Act 2011 (as amended)** on the burden of proof as well as the case of **EKWEOZOR & ORS V. REG. TRUSTEES OF THE SAVIOURS APOSTOLIC CHURCH OF NIG. (2020) LPELR - 49578 (SC)**.

However, the learned counsel admitted the fact that allegations of forgery and tax evasion are serious criminal allegations which require proof beyond reasonable doubt and not speculation. He also admitted the fact that it is the law that allegation of a crime in a civil suit must be proved beyond reasonable doubt. He referred to section **135(1) of the Evidence Act 2011 (as amended)**. He equally referred to the case of **OTUKPO V. JOHN (2012) 7 NWLR (PT. 1299) pg. 357 and MONDAY V. ARAJULU (2024) LPELR - 62643 (CA)** on the same principle that allegation of crime in a civil suit must be proved beyond reasonable doubt.

The learned counsel in his reply on point of law opined that the names mentioned in the counter affidavit of the 3rd defendant ought to be aware of the present suit. He acknowledged such names as Musa Yau'koki, Hassan Abubakar, Bashir Haidar, Rayyan Sufyan, Talban Kaura Namoda and Aylwin Eboh respectively as those that ought to be aware of the pendency of this suit assuming they have any interest to protect over the subject matter of this suit. He referred to a number of judicial authorities to show that the doctrine of laches and acquiescence has caught up with the above-named persons who ought to have applied to be joined in suit instead of waiting by for the 3rd defendant to plead their case if any. He referred to the cases of **SOLOMON & ORS V. MOGAJI & ORS (1982) LPELR - 3102 (SC)**, **ADEJUMO & ORS V. OLAWAIYE (2014) LPELR - 22997 (SC)** and **MOORE & ORS V. OKAFOR & ANOR (2014) LPELR - 24339 (CA)** respectively on the maxim of laches and acquiescence. He finally urged this Honourable Court to grant all the reliefs of the Claimant.

Having thus perused all the processes filed before this court and the documentary evidence placed by the parties, this Court formulates a lone issue to be determined, to wit:

" Whether from the facts of this case as disclosed in the various processes filed by the parties this court can grant the reliefs sought by the claimant without hearing evidence from the parties?"

In order to do Justice to this case, it will be in the interest of Justice to observe at the onset that this Honourable Court is of the humble view that originating summons are usually filed in cases that are not in dispute. In other words, the necessary documents placed before the court are not in dispute and as such need no oral evidence to ascertain the evidential value of the evidence attached to the various processes filed by the parties. The Claimant has acknowledged this fact when he referred to the case of **AWOLAJA & ANOR V. BALOGUN (2018) LPELR - 45535 CA** where it was held that:

"It is trite that the procedure or the use of originating summons cannot be employed in hostile proceedings".

The Cardinal question that must be answered by this Hon. Court is whether or not the facts disclosed in the originating summons, the counter affidavit of the 1st and 2nd Respondents, the counter affidavit of the 3rd defendant including Exhibits **EFCC 1 - EFCC 8** attached thereto as well as the reply on point of law by the Claimant have not raised fundamental issues that can only be resolved by calling evidence in this case. It is the understanding of this Honourable Court that it is not whether the plot **954** was issued by the Minister of the FCT or not. It is also not a conclusion that plot **954** was a proceed of crime or that plot 954 is genuine or not. The crux of this suit lies squarely on the actual Claimant to plot **953**. There is a serious issue raised in the processes

before this Honourable Court as to the genuineness of the so - called Attorney to the Claimant.

I dare observe at this stage that rather than the Claimant denying or controverting the averments contained in the various counter affidavits as well as the various documentary evidence attached thereto, they chose to reply on point of law. This clearly shows that the content of the respective counter affidavits along with the exhibits attached to them were never controverted. The position of the law in such a situation has been stated in a plethora of cases such as: **KANO STATE V. EFCC (2017) JSCNLR VOL. 14 pg 337** the Supreme Court held that:

"The essence of an originating summons being used in commencing an action in court is that where the controversy between the parties involved a simple construction of statutes or documents like the Constitution, wills etc. It is expedient to begin to initiate such action by way of an originating summons. Where however, the dispute between the parties is contentious and hostile, it would be inappropriate to commence such an action by way of an originating summons".

Similarly, in the case of **INAKOJU V. ADELEKE (2007) 4 NWLR (Pt. 1025) pg 423** it was held that:

"The originating summons procedure pre supposes that there were no disputed facts in issue".

In the same vein, in the case of **ZAKARI V. MUHAMMED (2017) 17 NWLR (Pt. 1594) pg 181** it was held that:

"Originating summons is best suited for cases where there are no substantial disputes of facts or likelihood of facts. Originating summons should only be applicable in circumstances where there is no dispute on the question of

facts or even the likelihood of such dispute. Where it is obvious from the state of the affidavit that there would be an air of friction in the proceedings, then an originating summons is not appropriate.....originating summons should not be used if the proceedings are hostile".

It will be in the interest of Justice to at this stage draw the attention of the parties to some salient issues raised in the various processes filed before this court in this suit. The learned counsel for the Claimants in his reply on point of law restated various means of proving title to land and in fact requested the 3rd Respondents to prove the invalidity or the genuineness or ownership of plot **954** citing some relevant sections of the Evidence Act and Judicial authorities. The learned counsel for the Claimant equally acknowledged the fact that allegation of forgery and tax evasion introduced into the case are serious criminal allegations required to be proved beyond reasonable doubt and not speculative. He submitted that there is no proof of the alleged forgery and tax evasion. He also urged this Honourable Court to ignore the various documentary evidence Exhibited as **EFCC 1** to **EFCC 8** as they are documentary hearsay. This, according to the learned counsel is because the witness Exhibiting the said documents is not the maker. Above all, the learned counsel raised the issue of laches and acquiescence and wondered why the people mentioned in the counter affidavit of the 3rd defendant are not made parties to the suit to ventilate and present their titles to the plot **954** if any and not wait by for the 3rd Defendant to plead their case for them. The names the Claimant referred to include, Musa Ya'ukoki, Hassan Abubakar, Bashir Haidar, Rayyan Sufyan, Talban Kaura Namoda, Aylwin Eboh and Mr. MESSIRI TOTA respectively.

It is important to observe at this stage that the content of Exhibit A attached to the counter affidavit of the 1st and 2nd Respondents titled "investigation Activities" 1, 2, (3) plot **954** Cadastral Zone **E27**, Apo

(MISC 102322) has raised a hostile issue before the court which requires oral evidence to clear the issue.

The Claimant's supporting affidavit deposed to by one NNAMDI OKEKE NWUDE states in para 1 that he is the ATTORNEY of the Claimant and the beneficial and lawful owner of plot **954**, Cadastral Zone **E27**, Apo, Abuja with offer of statutory Right of Occupancy Number, **MISC 102322** dated the 14/04/2011. However, the content of paragraph 11 of the 1st and 2nd defendant counter affidavit revealed that the original Right of Occupancy was fully conveyed and collected by one AYLWIN U. EBOH dated the 14/12/2011 notwithstanding that the plot was allocated to Fama Concepts Limited vide Ministerial approval dated the 14/12/2011.

Contrary to above information, the content of Exhibit EFCC 4 which is the statement of AYLWIN U. EBOH shows him denying being one of the Directors in the Claimant's plot **954**, yet he caused a letter to be written to AGIS with a heading "letter of Authority to remove Caveat on plot 954 **MISC NO. 102322 E27** Cadastral, Zone, Apo District "Wherein I signed as a director". It is the humble view of the Honourable Court that the content of the entire exhibit 4 with respect to the role he has played in this suit requires oral evidence thereby making this suit a hostile one that cannot be determined by way of originating summons.

Similarly, the content of Exhibit **EFCC 8** contains the statement of one Onatsaze Messiri Tata where he denied ever having executed a deed of assignment or power of Attorney in favour of Mr. Nnamdi OKEKE or Beatrice Okeke in respect of plot 954 Apo, Abuja. This equally requires an oral evidence to resolve the controversy surrounding the identity of the owner of plot 954 Apo, Abuja as the supposed Attorney Mr. Nnamdi

Okeke, could not produce any genuine document as to how his wife came by the said plot 954 or Mr. Aylwin Eboh or Mr. Ikechukwu.

It is therefore the opinion of this Honourable Court that the combined effect of Exhibits EFCC 4, 1, 3, 7, and 8 attached to the counter affidavit of the 3rd defendant clearly shows that this suit cannot be determined by way of originating summons as presently constituted.

Furthermore, the combined effect of the content of paragraphs 16 and 19 of the counter affidavit of the 3rd defendant makes it difficult if not impossible to determine this case as presently constituted. For purposes of clarity let me reproduce the content of paragraphs 16(s)(t) & (u) of the 3rd Defendant's counter affidavit as:-

16(s):- That Mr. Nnamdi Okeke Nwude (the purported Claimant's Attorney) stated that his late wife, Beatrice Okeke who died on 5th July, 2019 bought the said plot from FAMA CONCEPTS LIMITED in 2012 and was thereafter issued the original Right of Occupancy, irrevocable Power of Attorney, Deeds of Assignment and Fama Concepts Limited's Board Resolution transferring the said plot to his late wife. He stated that he has a letter of Administration and all the title documents relating to the said plot of land in his possession".

16(t) That Mr. Nnamdi Okeke was asked to show evidence of payment on how his late wife purchased the said plot from Fama Concepts Limited and he could not show same".

19(a) "That investigation shows that plot 954 was obtained by the Claimant as a result of forgery and giving false information to public servant, and therefore amounts to proceeds of unlawful activities".

16(b) That Fama concepts Limited with registration number 371257 was registered with Corporate Affairs Commission on 10/12/1999 with Clement Amaran and Tata Messiri as chairman and Director respectively. This fact is contained in Exhibit EFCC 3.

The foregoing analysis of the facts as disclosed in the various processes filed before this Honourable Court clearly shows that the Respondents have put up hostile defence. Thus, in the case of **PALI V. ABDU (2019) 5 NWLR Pt. 1665 pg 320 at pg 331 Para E** the Supreme Court Per Eko JSC held:

"Where the Respondent in an originating summons puts up a weighty and hostile defence, the action should not be heard on the originating summons".

Unfortunately, the response by the Claimant to the weighty and hostile counter affidavits of the Respondents is very porous and of no evidential value. The Claimant, instead of filling a better and further affidavit to the counter affidavit of the Respondents filed a Reply on point of law. However, the law is clear that when the originating proceeding is by way of originating summons, the affidavits filed in support serve as the statement of claim while the counter - affidavits serve as the statement of defence. They are of the same evidential value as a witness statement on oath. It is not sufficient to simply say that an averment is untrue and incorrect. There must be a specific denial of every material averment otherwise it will be deemed admitted. See **OWURU V. ADIGWU (2018) 1 NWLR PT. 1599 AT PG 27 PARA E - G PER KEKERE - EKUN JSC, NIGERIAN NATIONAL PETROLEUM CORPORATION (NNPC) V. FAMFA OIL LTD (2012) 17 NWLR PT. 1328 PG 163 AT PG 233 - 234 PARA F -A**Per Rhodes Vivour (JSC)

Thus, where the position of the case filed via originating summons becomes hostile the solution lies in the decision of the case of **JEV. V. IYORIYOM (2014) 14 NWLR (Pt. 1428) pg 575 at 615 para F - G** where it was held that:

"The general principle of law regarding conflict in affidavits in an originating summons procedure is that where that is the case, the court should order pleadings in order for the parties to lead evidence to resolve such conflicts".

In the instant case therefore, refusing the Claimant's application for an order lifting the Caveat placed on plot **954** Apo, Abuja will be in the interest of Justice and that will enable the **3rd** Respondents to conclude investigation surrounding plot **954**. The said Caveat placed on plot **954** ought to remain in force pending the outcome of the investigation. Consequently, all the reliefs sought by the Claimant cannot rightly be granted under originating summons proceedings and they are accordingly refused.

**SIGNED:
HON. JUDGE
06/05/2025.**

APPEARANCE:

C. N. Chukwudebelu, Esq, holding the brief of J. A. Augustine, Esq, for the Claimant

1st and 2nd Defendants are absent and not represented

M. I. Buba, Esq, for the 3rd Defendant